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FEDERAL REGISTER

VOLUME 3 NUMBER 21

Washington, Saturday, January 29, 1938

PRESIDENT OF THE UNITED STATES.

EXTENDING FOR THREE YEARS THE PERIOD OF OPERATION OF THE ACT APPROVED JUNE 14, 1935

By the President of the United States of America

A PROCLAMATION

WHEREAS section 1 of the act of June 14, 1935 (49 Stat. 340), entitled "An Act to protect American and Philippine labor and to preserve an essential industry, and for other purposes" provides, in part, that, effective May 1, 1935, and for three years thereafter, the total amount of all yarns, twines, cords, cordage, rope, and cable, tarred or untarred, wholly or in chief value of Manila (abaca) or other hard fiber, produced or manufactured in the Philippine Islands, coming into the United States from the Philippine Islands, shall not exceed six million pounds during each successive twelve months period, which six million pounds shall enter the United States duty free; and

WHEREAS section 2 of that act reads

"* * * Pending the final and complete withdrawal of American sovereignty over the Philippine Islands, the President of the United States may, by proclamation, at least ninety days prior to the expiration of the three year period provided in section 1 hereof, extend the operation of this Act for an additional period of three years or more, provided such extension is accepted by the President of the Commonwealth of the Philippines."

AND WHEREAS the President of the Commonwealth of the Philippines has indicated to me through the United States High Commissioner to the Philippine Islands his acceptance of an extension of the operation of that Act for an additional period of three years:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the authority vested in me by the aforesaid Act and in conformity with section 2 thereof, do hereby announce and proclaim the extension of the operation of that Act for an additional period of three years from and including May 1, 1938.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the City of Washington this 26'' day of January, in the year of our Lord nineteen hundred and [SEAL] thirty-eight, and of the Independence of the United States of America the one hundred and sixty-second.

FRANKLIN D ROOSEVELT

By the President:
CORDELL HULL
Secretary of State.

[No. 2272]

[F. R. Doc. 38-306; Filed, January 28, 1938; 11:04 a. m.]

EXECUTIVE ORDER

ENLARGING LOWER SOURIS MIGRATORY WATERFOWL REFUGE

North Dakota

By virtue of and pursuant to the authority vested in me as President of the United States, and in order to effectuate further the purposes of the Migratory Bird Conservation Act (45 Stat. 1222), it is ordered that the lands acquired or to be acquired by the United States in the following-described areas, comprising 10,544.74 acres, more or less, in Bottineau and McHenry Counties, North Dakota, be, and they are hereby, reserved and set apart, subject to valid existing rights, for the use of the Department of Agriculture, as an addition to the Lower Souris Migratory Waterfowl Refuge established by Executive Order No. 7170 of September 4, 1935: *Provided*, that any private lands within the areas described shall become a part of the refuge upon the acquisition of title thereto or lease thereof by the United States:

FIFTH PRINCIPAL MERIDIAN

T. 158 N., R. 75 W.,
sec. 7, lots 3 and 4, and SE¼SW¼;
sec. 18, NW¼NE¼ and NE¼NW¼.
T. 158 N., R. 76 W.,
sec. 1, lot 4 and SW¼;
secs. 2 and 3;
sec. 4, lots 3 and 4, SW¼NE¼, S½NW¼, NE¼SW¼, NW¼SE¼, and S½SE¼;
sec. 5, lots 1 and 2, and S½NE¼;
sec. 9, E½NE¼;
sec. 10, N½, N½SW¼, and SE¼;
sec. 11, all;
sec. 12, NW¼, SW¼, NE¼SE¼, and S½SE¼;
sec. 13, W½;
sec. 14, all;
sec. 15, E½;
sec. 23, N½NE¼;
sec. 24, NW¼NW¼.
T. 159 N., R. 76 W.,
sec. 18, lots 2, 3, and 4, and SE¼SW¼;
sec. 19, lots 1 to 4, inclusive, NE¼NW¼, and SE¼SW¼;
sec. 29, SE¼SW¼, NW¼SE¼, and S½SE¼;
sec. 30, NW¼NE¼, S½NE¼, and E½SE¼;
sec. 31, NE¼NE¼;
sec. 32, SW¼NE¼, W½, and E½SE¼;
sec. 33, NE¼, NW¼SW¼, S½SW¼, and SE¼;
sec. 34, NE¼SW¼, S½SW¼, and SE¼;
sec. 35, S½NW¼ and S½.
T. 159 N., R. 77 W.,
sec. 7, lot 1 and E½NW¼;
sec. 13, E½NE¼, SW¼SW¼, and SE¼;
sec. 14, S½SE¼;
sec. 23, E½NE¼ and NE¼SE¼;
sec. 24, NE¼, N½NW¼, SW¼NW¼, NW¼SW¼, and SE¼;
sec. 25, E½NE¼;
sec. 33, NE¼SW¼, NW¼SE¼, and S½SE¼.
T. 159 N., R. 78 W.,
sec. 4, lot 4, SW¼NW¼, N½SW¼, and S½SE¼;
sec. 5, SE¼NE¼ and NE¼SE¼;
sec. 10, W½SE¼.
T. 160 N., R. 78 W.,
sec. 30, SE¼NW¼, E½SW¼, and SW¼SE¼;
sec. 31, NE¼ and NE¼NW¼;
sec. 32, SW¼NW¼, NW¼NE¼SW¼, S½NE¼SW¼, NW¼SW¼, and S½SE¼.

FEDERAL REGISTER

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sec. 18, SW¼NE¼, SE¼NW¼, NE¼SW¼, E½SE¼SW¼, and NW¼SE¼.
T. 164 N., R. 79 W.,
sec. 31, E½SE¼;
sec. 32, W½SW¼.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
January 27, 1938.

[No. 7799]

[F. R. Doc. 38-307; Filed, January 28, 1938; 12:22 p. m.]

EXECUTIVE ORDER

TRANSFERRING CERTAIN LANDS TO THE CONTROL AND JURISDICTION OF THE SECRETARY OF THE NAVY

Cuba

By virtue of and pursuant to the authority vested in me as President of the United States, and by the act of July 11, 1919, 41 Stat. 131, 132 (10 U. S. C., sec. 1274), and in the interest of the national defense, it is ordered that there be, and there is hereby, transferred from the control and jurisdiction of the Secretary of War to the control and jurisdiction of the Secretary of the Navy, all that portion of military reservation No. 1 at Cuzco Hills, Guantanamo Bay, Cuba, created by order of the President dated January 9, 1904, that lies north of an imaginary east and west line 4,000 feet due north of the Windward Point Lighthouse, with the following exceptions:

(1) That portion of military reservation No. 1 that was transferred by the Secretary of War to the Secretary of Commerce and Labor on September 18, 1905, for a lighthouse depot.

(2) Existing rights of certain telegraph and cable companies heretofore granted under Presidential licenses.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
January 27, 1938.

[No. 7800]

[F. R. Doc. 38-308; Filed, January 28, 1938; 12:22 p. m.]

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49365]

CUSTOMS REGULATIONS AMENDED—BOND FOR MANUFACTURING WAREHOUSE

CUSTOMS REGULATIONS OF 1937 AMENDED TO ELIMINATE NECESSITY FOR SENDING COPY OF PROPRIETOR'S MANUFACTURING WAREHOUSE BOND TO COLLECTOR OF INTERNAL REVENUE FOR APPROVAL

To Collectors of Customs and Others Concerned:

Pursuant to the authority contained in section 311 of the Tariff Act of 1930, as amended (U. S. C. (1934 ed.), title 19, sec. 1311 and U. S. C. (1934 ed., supp. II), title 19, sec.

1311), article 972 of the Customs Regulations of 1937[1] is hereby amended to read as follows:

"ART. 972. *Bond.*—The procedure outlined in articles 920 and 921[2] with respect to the application to bond the premises and the execution of the bond shall be followed, except that the bond shall be executed on customs Form 3583."

[SEAL] JAMES H. MOYLE,
Commissioner of Customs.

Approved: January 24, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-299; Filed, January 27, 1938; 2:44 p. m.]

DEPARTMENT OF AGRICULTURE.

Bureau of Animal Industry.

[Amendment 14 to B. A. I. Order 353]

AMENDMENT OF ORDER TO PREVENT INTRODUCTION INTO UNITED STATES OF RINDERPEST AND FOOT-AND-MOUTH DISEASE

JANUARY 27, 1938.

Under authority conferred by law upon the Secretary of Agriculture by Section 306 of the Tariff Act of 1930 (46 Stat. 590-689), the order to prevent the introduction into the United States of rinderpest and foot-and-mouth disease (B. A. I. Order 353), dated June 1, 1935, and effective August 1, 1935, as amended, is hereby further amended by adding the names of Bechuanaland, Mozambique (Portuguese East Africa), Southwest Africa and the Union of South Africa to the list of countries in said order, as I have determined that foot-and-mouth disease exists in the countries named and I have so officially notified the Secretary of the Treasury.

This amendment, which for purpose of identification is designated Amendment 14 to B. A. I. Order 353, shall be effective on and after January 29, 1938.

Done at Washington this 27th day of January 1938.

Witness my hand and the seal of the Department of Agriculture.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-309; Filed, January 28, 1938; 12:42 p. m.]

Farm Security Administration.

DESIGNATION OF COUNTIES

NEW JERSEY

JANUARY 27, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the New Jersey State Farm Security Advisory Committee, the following county is hereby designated as that in which loans, pursuant to said Title, shall be made for the fiscal year ending June 30, 1938:

Burlington.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-311; Filed, January 28, 1938; 12:42 p. m.]

DESIGNATION OF COUNTIES

WASHINGTON

JANUARY 27, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Washington State Farm Security Advisory Committee, the following county is hereby designated as that in which loans, pursuant to said Title, shall be made for the fiscal year ending June 30, 1938:

Yakima.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-310; Filed, January 28, 1938; 12:42 p. m.]

DEPARTMENT OF LABOR.

Immigration and Naturalization Service.

[General Order No. 256]

DOCUMENTS REQUIRED OF ALIENS IN TRANSIT

AMENDMENT OF IMMIGRATION RULES OF JANUARY 1, 1930

JANUARY 26, 1938.

Pursuant to the authority conferred by section 24 of the Immigration Act of 1924 (Act of May 26, 1924; 43 Stat. 166; U. S. C., Title 8, Section 222), and Executive Orders 6166 and 6986, dated June 10, 1933, and March 9, 1935, respectively, sub-paragraph (b) of Paragraph 2 of Subdivision F of Rule 3 of the Immigration Rules of January 1, 1930, as amended by General Order No. 232, June 19, 1936,[1] is amended by deleting the following:

"(the term 'citizen' meaning a person who is a native of or who has acquired citizenship by naturalization or by marriage under the laws in force in the territory specified and who has not lost such citizenship)."

[SEAL] JAMES L. HOUGHTELING,
Commissioner of Immigration and Naturalization.

Approved:

FRANCES PERKINS,
Secretary.

[F. R. Doc. 38-303; Filed, January 28, 1938; 10:30 a. m.]

[General Order No. 257]

STATUS OF ALIEN APPLICANTS FOR NONQUOTA OR PREFERENCE-QUOTA IMMIGRATION VISAS BASED UPON RELATIONSHIP TO CITIZENSHIP

JANUARY 26, 1938.

Pursuant to the authority conferred by section 24 of the Immigration Act of 1924 (Act of May 26, 1924; 43 Stat. 166; U. S. C., Title 8, Section 222), and Executive Order 6166, dated June 10, 1933, the second paragraph of the first amendment of December 22, 1933 to General Order 56 is amended to read as follows:

"In all nonquota or preference quota cases, however, the issuance of a visa will be withheld and approval of petition may be revoked if it is ascertained that the petitioner has since lost his American citizenship, has died, or has become divorced from the beneficiary wife or husband; or, in the case of a child, if application for the visa is not made before reaching the age of 22 years, or if he has become married. In such cases report will be made by the Consular officer in order that the Department may reconsider the approval theretofore granted."

[SEAL] JAMES L. HOUGHTELING,
Commissioner of Immigration and Naturalization.

Approved:

FRANCES PERKINS,
Secretary.

[F. R. Doc. 38-304; Filed, January 28, 1938; 10:30 a. m.]

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[1] 2 F. R. 1955 (DI).
[2] 2 F. R. 1947 (DI).

[1] 1 F. R. 657.

Office of the Secretary.

DECISION IN THE MATTER OF THE RECONSIDERATION OF THE MINIMUM WAGE DETERMINATION FOR THE MEN'S HAT AND CAP INDUSTRY

These matters are before me pursuant to Section 1 (b) of the Public Contracts Act (49 Stat. 2036) for a reconsideration of the minimum wage determination of July 28, 1937[1] for the Men's Hat and Cap Industry. The Public Contracts Board, created in accordance with Section 4 of the said act by Administrative Order, dated October 6, 1936, has held public hearings in the above-entitled matter as follows:

On October 27, 1937, to take testimony upon which findings of fact might be made to assist me in determining whether the prevailing minimum wages for the Men's Hat and Cap Industry should properly be held applicable to contracts for the manufacture of enlisted men's white sailor hats, described in Navy Specifications No. 73–H–1–B, and, in the event such minimum should be held not applicable, in determining the prevailing minimum wages for employees engaged in the manufacture of this article.

On October 27, 1937, to take testimony upon which findings of fact might be made to assist me in determining whether the prevailing minimum wages for the Men's Hat and Cap Industry should properly be held applicable to contracts for the manufacture of Army service, O. D. hats, described in Army Specifications No. 8–22, and, in the event such minimum should be held not applicable, in determining the prevailing minimum wages for employees engaged in the manufacture of this article.

On December 2, 1937, to take testimony and make findings of fact to assist me in determining whether and to what extent I should, under the powers conferred upon me by the Public Contracts Act, permit a variation from the prevailing minimum wage determination of July 28, 1937, for the Men's Hat and Cap Industry to cover the following and similar occupations in the manufacture of men's cloth stitched hats: clippers, cleaners, stampers, binding cutters, band cutters, turners, markers, examiners, packers and bundlers.

On January 14, 1938, to permit interested parties to show cause why a variation from the minimum wage determination of July 28, 1937, for the Men's Hat and Cap Industry should not be allowed, permitting the payment to auxiliary workers in the uniform cap branch of the industry of a minimum of 37.5 cents per hour or $15.00 for a week of 40 hours, arrived at either upon a time or piece work basis.

On January 14, 1938, to permit interested parties to show cause why a variation from the minimum wage determination of July 28, 1937, for the Men's Hat and Cap Industry should not be allowed, permitting the payment to auxiliary workers in the men's felt hat branch of the industry of a minimum of 37.5 cents per hour or $15.00 for a week of 40 hours, arrived at either upon a time or piece work basis.

Invitations to attend these hearings were sent to all known members of the industry and to trade associations and labor unions and were extended through the national press to all other interested parties. Testimony was presented at all these hearings by the United Hatters, Cap and Millinery Workers International Union. At the hearing on October 27, 1937 on enlisted men's white sailor hats testimony was presented by the National Headwear Manufacturers Association, Inc. At the hearings on felt hats, testimony was presented by the Hat Institute. At each hearing testimony was received from individual manufacturers.

The Board has made findings as a result of the testimony taken at the above listed hearings as follows:

1. That the enlisted men's white sailor hats are cloth, stitched hats, properly within the purview of the decision of July 28, 1937.

2. That the information received as a result of the hearing held October 27, 1937, on felt hats, was not of sufficient probative value to warrant the making of any findings as to the necessity for a modification in the 67.5 cents per hour minimum established in the decision of July 28, 1937, as to that article.

3. The prevailing minimum wage of 67.5 cents as originally determined was based on evidence of record, that no workers other than those possessing a high degree of skill were employed and that no learners, handicapped, or superannuated workers were employed.

4. That the newly admitted evidence has disclosed that in the manufacture of hats and caps on government orders workers possessing no high degree of skill, and performing tasks subservient and supplementary to the basic productive processes of the industry, commonly referred to as auxiliary workers have been employed.

5. That generally in the industry not more than 20 per cent of the productive employees in any one plant are auxiliary workers.

6. That the term "auxiliary workers" in the uniform branch and in the stitched hat branch of the industry is best defined as all employees other than cutters or workers in the cutting room, machine workers or workers on any kind of machine, blockers, pressers, or hand sewers.

7. That 37.5 cents per hour represents the minimum wage prevailing in the industry for auxiliary workers.

On the basis of these findings, the Board recommends that a variation from the decision of July 28, 1937 in the matter of prevailing minimum wages in the Men's Hat and Cap Industry be granted to permit the employment in that industry, on contracts subject to the provisions of the Public Contracts Act, of auxiliary workers at a wage of not less than 37.5 cents per hour or $15 per week for a 40 hour week, arrived at either upon a time or piece work basis;

Provided, That not more than 20 per cent of the workers engaged at any one time in any one plant on the government contract shall be classified as auxiliary workers; and

Provided further, That the term "auxiliary workers" when used in connection with employees in the uniform cap and in the stitched hat branches of the industry shall not be interpreted to include cutters or workers in the cutting room, machine workers, or workers on any kind of machine, blockers, pressers or hand sewers.

I have examined these findings and recommendations, and the record of the hearing, and I am of the opinion that such findings and recommendations are correct and I adopt them as my own.

Therefore, I hereby determine

(1) That the minimum wage for employees engaged in the performance of contracts with agencies of the United States Government subject to the provisions of Public Act No. 846, 74th Congress, approved June 30, 1936, for the manufacture or supply of men's hats and caps shall be 67.5 cents per hour or $27.00 per week for a forty hour week to be arrived at either upon a time or piece work basis, and

(2) That a tolerance of not more than 20 per cent of the employees in any one factory whose activities at any given time are subject to the provisions of the Public Contracts Act be granted for auxiliary workers, provided that such auxiliary workers be paid a wage of not less than 37.5 cents per hour or $15 per week for a forty hour week, arrived at either upon a time or piece work basis, and provided further, that the term "auxiliary worker" when used in connection with employees in the uniform cap and in the stitched hat branches of the industry shall not be interpreted to include cutters or workers in the cutting room, machine workers, or workers on any kind of machine, blockers, pressers or hand sewers.

This determination shall be effective and the minimum wages hereby established shall apply to all such contracts awarded on or after February 11th, 1938.

Dated this 24th day of January, 1938.

[SEAL] FRANCES PERKINS, *Secretary.*

[F. R. Doc. 38-302; Filed, January 28, 1938; 10:30 a. m.]

[1] 2 F. R. 1593 (DI).

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

[Docket No. 3305]

IN THE MATTER OF THE UNITED FENCE MANUFACTURERS ASSOCIATION, AN UNINCORPORATED BODY; MATTSON WIRE AND MANUFACTURING COMPANY, A CORPORATION; NEBRASKA BRIDGE SUPPLY AND LUMBER COMPANY, A CORPORATION; ROWE MANUFACTURING CORPORATION, A CORPORATION; GLENN A. LINDABURY, MARTIN LINDABURY, AND EDGAR LINDABURY, AS CO-PARTNERS DOING BUSINESS UNDER THE STYLE OF H. R. LINDABURY AND SONS; AND GLENN A. LINDABURY, AS TRUSTEE OF SAID RESPONDENT ASSOCIATION; J. M. DENNING AND J. WAYNE DENNING, AS CO-PARTNERS DOING BUSINESS UNDER THE STYLE OF ILLINOIS WIRE AND MANUFACTURING COMPANY; AND J. M. DENNING, AS TRUSTEE AND VICE-CHAIRMAN OF SAID ASSOCIATION; MARGARET C. LARSEN, DOING BUSINESS UNDER THE STYLE OF BUFFALO INDUSTRIAL COMPANY; LEON L. HUTCHINSON, AS PRODUCER-MEMBER AND AS TRUSTEE OF SAID RESPONDENT ASSOCIATION; STEWART W. ADAMS, AS PRODUCER-MEMBER AND AS TRUSTEE OF SAID RESPONDENT ASSOCIATION; HARRY I. MATTSON, AS CHAIRMAN AND MEMBER OF THE BOARD OF TRUSTEES OF SAID ASSOCIATION; LLOYD DEKATER, AS TRUSTEE OF SAID ASSOCIATION; ALVIN V. ROWE, AS TRUSTEE OF SAID ASSOCIATION; CARL F. LARSEN, AS TRUSTEE OF SAID ASSOCIATION; AND S. PAGE SCHOLEY, AS EXECUTIVE SECRETARY OF SAID ASSOCIATION

COMPLAINT

Pursuant to the provisions of an Act of Congress entitled, "An Act to Create a Federal Trade Commission, to define its powers and duties, and for other purposes", approved September 26, 1914, and commonly known as the Federal Trade Commission Act, the Commission having reason to believe that the respondents named herein have violated the said act of Congress, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, the Commission hereby issues this its complaint stating its charges in such respect in Count I hereof.

Also pursuant to the provisions of Section 2 of an Act of Congress, approved October 15, 1914, entitled, "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", commonly known as the Clayton Act, as amended by an Act of Congress approved June 19, 1936, commonly known as the Robinson-Patman Act, the Commission having reason to believe that the respondents named herein have violated the said act, as so amended, the Commission issues this its complaint stating its charges in such respect in Count II hereof.

Count I

PARAGRAPH 1. (a) Respondent The United Fence Manufacturers Association, hereinafter referred to as the "Association", is an unincorporated body having as members eight respondent corporations, individuals and co-partnerships, manufacturers of snow fence, described in sub-paragraphs (b) to (i), inclusive, of this Paragraph One, and sometimes referred to herein as "producer-members." The Association was organized in 1936 and has its headquarters at the offices of the respondent co-partnership H. R. Lindabury and Sons, of Burlington, New Jersey. It operates through its respondent officers and trustees.

(b) Respondent Mattson Wire and Manufacturing Company is an Illinois corporation, having its principal place of business at Joliet, Illinois, and plants at Menominee, Michigan, West Albany, New York, and at points farther west.

(c) Respondent Nebraska Bridge Supply and Lumber Company is a Nebraska corporation, having its principal place of business at 19th Street and Farnum Avenue, Omaha, Nebraska. It has plants at Troy, New York, East Corinth, Maine, and at points in the Middle West and West.

(d) Respondent Rowe Manufacturing Company is an Illinois corporation, having its principal place of business at Galesburg, Illinois. It has plants at Portland, Maine, Candia, New Hampshire, and Horseheads, New York.

(e) Respondents Glenn A. Lindabury, Martin Lindabury and Edgar Lindabury are co-partners doing business under the style of New Jersey Fence Company. They have their principal place of business and a plant at Burlington, New Jersey, and another plant at Cohoes, New York.

(f) Respondents J. M. Denning and J. Wayne Denning are co-partners doing business under the style of Illinois Wire and Manufacturing Company. They have their principal place of business at Market and Pleasant Streets, Joliet, Illinois, and plants at Buffalo, New York, Cumberland Mills, Maine, and several points in the Middle West.

(g) Respondent Margaret C. Larsen is a producer doing business under the style of Buffalo Industrial Company and has her principal place of business at 604 Jackson Building, Buffalo, New York, and a plant also at Buffalo.

(h) Respondent Leon L. Hutchinson is a producer doing business under the style of L. L. Hutchinson, with his principal place of business and plant at Pavilion, New York.

(i) Respondent Stewart W. Adams is a producer doing business under the style of S. W. Adams and having his principal place of business and plant at Oxford, Chenango County, New York.

(j) Respondents Harry I. Mattson, J. M. Denning and S. Page Scholey are respectively chairman, vice chairman and executive secretary of the Association.

(k) Respondents Harry I. Mattson, J. M. Denning, Glenn A. Lindabury, Lloyd DeKater, Alvin V. Rowe, Carl F. Larsen, Leon L. Hutchinson and Stewart W. Adams are trustees of the Association.

PAR. 2. Snow fence is largely sold in carload lots, eight thousand feet constituting a minimum carload. The carriage charges, on both carload and less than carload lots comprise a substantial element of the average costs of producer-members' snow fence products, sold, as described in Paragraph Five hereof, delivered at customers' locations. Far the greatest part of said snow fence products are sold in standard dimensions and specifications. The fence most in demand is 4 feet in height, with pickets 4 feet by 1½ inches by ½ inch.

PAR. 3. Each producer-member in the regular and ordinary course of his business, in the sale and delivery of snow fence products, causes the same to be shipped from the point of production thereof in one state to customers in other states of the United States. There is competition among producer-members except insofar as it has been hindered, lessened, restricted, frustrated, restrained, or suppressed as alleged in Paragraphs Four to Seven, inclusive, hereof. Respondent Association and its said officers and trustees are not, in their said official capacities, engaged in commerce, but are engaged in aiding producer-members in carrying out the methods of competition and practices alleged in this Count, with the effects set forth in Paragraphs Seven and Eight hereof.

PAR. 4. Respondents have entered into and now maintain an agreement, understanding or conspiracy among themselves unduly to hinder, lessen, restrict, frustrate, restrain or suppress competition in price among producer-members in the course of their commerce within, and to maintain higher initial and resale prices than would otherwise prevail within, the area of the states of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, and Ohio. In the area of said fourteen states, the producer-members sell from 90% to 95% of the snow fence products purchased therein.

PAR. 5. For the purpose and with the effect of making the agreement, understanding or conspiracy, alleged in Paragraph Four hereof, the more effective, respondents have combined or conspired, and continue to combine or conspire to follow and mutually to maintain a system of delivered prices for quotations and sales of snow fence to customers who live within the said fourteen states. Under the said system of delivered prices, each producer-member makes the

same prices delivered at the location of every customer within the said fourteen states, from whom said producer-member accepts business, defraying, without additional cost to any such customer, whatever carriage charges, either for carload or for less than carload lots, are necessary for delivery to all such respective destinations.

PAR. 6. For the purpose and with the effect of making the agreement, understanding or conspiracy, alleged in Paragraph Four hereof, more effective, respondents have combined or conspired, and continue to combine or conspire, to follow, in addition to the delivered pricing system, alleged in Paragraph Five, numerous other practices, several of which were employed by respondents, other than the Association and its agents, prior to the formation of the Association. Among these practices, the following are, but by no means exclusively, alleged, to wit:

(*a*) Each Producer-member has formally agreed to file, and in practice has actually filed, with respondent executive secretary his delivered price list, discounts and terms of sale, the same to be maintained for all sales except where bids are requested by any government or sub-division thereof, until such producer-member shall file with said executive secretary, a revised delivered price list not less than ten days before the same shall become effective. Delivered price changes are not generally made effective by all producer-members on the same day, but, to the extent and for the period that the said agreement, understanding or conspiracy has been effective, producer-members cause their revised lists of delivered prices to be filed for their respective standard snow fence products for delivery in the said 14 states, soon after a revised price list has been filed by a fellow producer-member, in order to maintain the price identity set out in sub-paragraph (*b*) next herein set forth.

(*b*) Producer-members concertedly adopt and file, for both carload and less than carload quantities, lists of delivered prices which are in fact actually identical for snow fence products of each standard type, and identical discounts and terms of sale.

(*c*) Notwithstanding the exception formally made in favor of governmental purchasers, as set forth in sub-paragraph (*a*) of this Paragraph Six, respondents have in practice pursued the same price policy as respects public, as well as private, buyers to the end that public and governmental purchasing bodies have been deprived of the benefits of competition in price, among producer-members and among their vendees, in the purchasing of snow fence products.

(*d*) Producer-members maintain the said filed delivered prices without direct or indirect concession to any buyer.

(*e*) They abstain from making shipments upon consignment.

(*f*) They bring instances of price cutting, if deemed to have been indulged in by any producer-member, to the attention of respondent executive secretary, who thereupon undertakes to negotiate the matter with the producer-member charged with price cutting and thus to eliminate further price concessions.

(*g*) Each producer-member has agreed that, if at any time he shall be charged with a violation of any of respondents' undertakings as to prices averred in Paragraphs Five and Six, among others, he will submit to an investigation and to an examination under oath, conducted by the respondent Board of Trustees; and he has also consented in advance to be bound by such corrective steps as the Board may ordain.

(*h*) Producer-members have agreed that "distributors" and "dealers" shall have respective discounts, from the aforesaid filed delivered prices, of 20% and 10%.

(*i*) The definitions of what traders shall belong to the class of "distributors" and of what traders shall belong to the class of "dealers" have been concertedly made by respondents.

(*j*) Producer-members file their respective lists of customers with the Association.

(*k*) The Association issues to producer-members a list of distributors who only shall be entitled to the standard distributors' discount.

(*l*) Respondents have taken concerted steps to maintain the resale prices, made by distributors, at list price less 10%, and to maintain the resale prices, of dealers to the public, at list price; each class of said resale price to be without concession and to operate throughout the said fourteen states.

(*m*) Respondents request and urge distributors and dealers to report instances of price cutting in the distribution of snow fence products with the name of vendor and vendee, the prices and terms offered or charged, and the name of the producer. And respondents have at times succeeded in obtaining such reports.

(*n*) Respondents bring persuasion, constraint, and coercion to bear upon the vendees of snow fence to the end that the vendees shall maintain the said resale prices required by respondents.

(*o*) Producer-members have entered into and maintain an understanding that they will not sell to distributors or dealers who quote and charge prices below the prices required by respondents, or to those who make better terms and conditions than are authorized by respondents.

(*p*) Respondents have at various times threatened to cut off the supplies of snow fence products from vendees who make lower prices or better terms and conditions of sale than those authorized by respondents and have actually at times concertedly refused to continue to sell to such vendees.

(*q*) Producer-members have at times apportioned among several of themselves large orders awarded to one producer, as the result of proposals and submission of bids, without the consent or knowledge of the purchaser. They have thus lessened the competitive initiative of producer-members and the advantages to the purchaser of competition, through the issuance of proposals for bids. They have thus also effectuated the passing off upon the purchaser of a make of snow fence other than that made by the producer-member in whose favor the award was made.

PAR. 7. The effects of the said agreement, understanding or conspiracy, the said system of delivered prices and the said other practices employed, all as in Paragraphs Four, Five and Six of this Count set forth, during times when they have been operative, are hereby alleged, but not to the exclusion of other effects, to be as follows, namely:

(*a*) There is no competition in delivered prices, between producer-members, for the business of any private or public buyer located in the above-named fourteen states. All producer-members make delivered prices, identical as respects the customers of each of them, and identical also as respects all producer-members.

(*b*) In numerous instances producer-members thus sell and deliver their products long distances from their plants to customers located much nearer the plant of one or more other producer-members and susceptible of being, more economically and at lower prices, served from the said other plants.

(*c*) Each producer-member obtains his highest net return when he sells to customers located at or near the point where his own plant is also located and from which the delivery charge is accordingly at a minimum; but he does not reduce his delivered price in the slightest to hold or to gain this his most profitable actual or prospective business. Instead of doing so, he refrains from any acts of price competition and makes no effort, so far as price is concerned, to bid for such most profitable business. In return for refraining so to do he reciprocally gains the privilege of quoting and selling to customers in the high net return areas of other producer-members. Each producer-member well knows that, so long as other producer-members adhere to the said concerted delivered pricing system, he will nowhere encounter competition in price.

(*d*) The costs of producing snow fence vary somewhat due to the differing costs, at respective plants, of the lumber, wire and other materials and differing labor costs. By the said pricing system such variations in cost are nullified as an influence or check upon prices. Prices are made by producer-members with no regard to individual costs or to varying local conditions of supply or demand. Said prices are made in

terms of the said pricing system and are applied throughout the said fourteen states. Such producer-members maintain an artificial price level little related to and not governed by truly competitive conditions.

(*e*) Under the said pricing system, producers more efficient, and better financed and equipped, and better located, as respects supplies, markets and transportation, in large measure waive their competitive advantages, in the said respects, among others, by adhering to the said identical delivered pricing system. Thus their incentive toward efficiency and economy is weakened. Any saving that might be effected cannot, under the system, be reflected in price concessions, or in the holding of business in high net return areas, or in the obtaining of increased volume of business. The same delivered prices are adhered to by all producer-members alike.

(*f*) Under conditions of true price competition, consumers located at or near points of production normally tend to buy from a local plant. If the local prices advance unduly, the competition of the nearest competitor at once becomes more active and restores a more reasonable price. But under respondents' said pricing system the advantages which would normally accrue to buyers located near snow fence plants are destroyed. Each producer-member charges the same delivered price as every other. All buyers pay the same averaged carriage factor irrespective of location or actual carriage costs, a price factor substantially higher than would prevail under normal competitive conditions. Buyers can choose to purchase from among a greater number of producers than would normally quote or sell under true price competition, but the conditions under which they buy are monopolistic, not competitive.

(*g*) Thus the buying public, as an average, pays prices for snow fence which are enhanced both by freedom from competition and also by an excessive carriage factor.

(*h*) The channels of distribution of snow fence have been crystallized in favor of certain wholesalers and retailers, who are regarded as meeting the views and definitions of respondents and who, irrespective of the rights of others freely to enter trade and compete for success therein, are given exclusive trade recognition through respondents' said agreement, understanding or conspiracy.

(*i*) The resale prices of distributors and dealers, customers of producer-members, have been maintained by concert of action among respondents and, in some cases, by concert of action among certain distributors and dealers at the instance and with the cooperation of respondents.

(*j*) Distributors and dealers in snow fence have been compelled to adhere to sales prices concertedly forced upon them by respondents.

(*k*) Other important means of price competition, susceptible of being employed in the business, including higher trade and cash discounts and better terms, than those made by competitors, and the gaining as outlets of distributors and dealers sufficiently competent to gain volume of business through competition in price, are waived, and, while respondents' said combination is in effect, are eliminated.

(*l*) Thus the buying public, while respondents have pursued the acts and things set forth in Paragraphs Four, Five and Six hereof, have lost the benefit of price competition in snow fence products among producer-members, and among their distributors and dealers. The public has been obliged to pay artificially enhanced and maintained prices for said products.

(*m*) Since producer-members control 90 to 95% of the snow fence products sold in the aforesaid fourteen states, the tendency of the acts and things averred in Paragraphs Four, Five and Six, is to give, and said acts and things have nearly availed to give, producer-members a monopoly in said products in the said fourteen states.

PAR. 8. (*a*) The public interest has been substantially, adversely and unreasonably affected by the agreement, understanding or conspiracy of respondents and the practices and activities in Paragraphs Four, Five and Six averred. Thereby respondents have hindered, lessened, restricted, frustrated and restrained, and still hinder, lessen, restrict, frustrate and restrain the interstate commerce of producer-members in the fourteen states with a direct and substantial tendency to suppress such commerce. Such concerted action exercises a power which individual action could not exercise or possess, and the necessary tendency and the direct and substantial effect of the combination are injury to the public.

(*b*) The Federal Trade Commission alleges moreover, that the public interest directly involved herein and set out more particularly in Paragraph Seven and the preceding subparagraphs of this Paragraph Eight, is a part of the larger public interest, within the meaning of the Federal Trade Commission Act, in the maintenance of the natural regulatory forces of free competition in industry generally. The economic tendency of the respondents' said agreement, understanding or conspiracy upon the public interest, as thus broadly stated, is to lend encouragement to similar impairment of competition in other industries, the effect of which upon the buying power of consumers, the opportunities for independence in business, the necessity that the government undertake by regulation to protect the public interest, and the fluctuations of national prosperity, must increase in severity as the extent of competition is reduced. The leaving to private industry of monopolistic special privileges and franchises is at the expense of the purchasing power of the masses of the country and results inevitably in reducing the opportunity freely to enter industry and commerce.

PAR. 9. The agreement, understanding or conspiracy, and the practices in this Count set forth are all to the prejudice of the public. They constitute unfair methods of competition in the snow fence industry in interstate commerce, within the effect and meaning of the aforesaid Federal Trade Commission Act.

Count II

PAR. 1 to 5, inclusive. As Paragraphs One to Five, inclusive, of Count II of this complaint the Commission hereby incorporates Paragraphs One to Five, inclusive, of Count I hereof to precisely the same extent as if each and all of them were set forth in full and repeated verbatim in this count.

PAR. 6. (*a*) Under the pricing system described in Paragraph Five hereof the said delivered prices quoted and charged by each producer-member are in excess of the net or true prices received for snow fence except where the buyer is located in the same city as that of the producer-member making the sale. Delivered prices to all buyers not located in the same city include not only the price of the fence but the price of transportation and delivery. In order to ascertain the net or true price received the actual carriage charges incurred by the producer-member must be deducted from the delivered price which he receives.

(*b*) Each producer-member receives his highest price from buyers located in the city or town where his plant is also located. As the distances from his plant and the corresponding amounts of the freight charges increase, the net or true prices received by the producer-member diminish. The lowest price received, by any producer-member, is that from the customer to whose location the carriage charge is the highest but from whom, nevertheless, such producer-member accepts business.

(*c*) Respondents' uniform delivered price system is not a system of uniform true prices made by any given producer member. It is a system under which each producer-member makes as many different prices to his customers as there are destinations, at which he delivers his products for sale, having different carriage charges from the location of his plant.

(*d*) The said system of delivered prices is a system wherein the regular, constant and substantial discrimination in prices is inherent and inescapable so long as the said system be employed.

PAR. 7. The discriminations described in Paragraph Six of this count are not indulged in merely for convenience nor through custom. Producer-members have no immediate purpose or wish to obtain higher net prices or greater profits

from customers who are their neighbors or residents of the same community or locality, wherein they themselves live, than from other customers. They obtain such higher prices and profits from local buyers but through no motive of ill-will towards them as individuals. They discriminate in price in their sales against buyers in their respective home territories with the purpose to destroy competition in price in interstate commerce on the part of each producer-member, which grants the discrimination, with all other producer-members.

PAR. 8. It is through the said system of discrimination in price, adopted and maintained as in Paragraphs Five, Six and Seven set forth, that respondents have put into operation and maintained their agreement, understanding or conspiracy alleged in Paragraph Four. Among the effects of the said price discrimination, thus systematically pursued, are the following:

(*a*) There is no competition among the producer-members since the delivered prices by them quoted and charged for the business of any private or public buyer located in the above-named 14 states are precisely identical as respects the customers of each of them and identical also as respects all producer-members making or quoting such delivered prices.

(*b*) Each producer-member obtains his highest price when he sells to customers located at or near the point where his own plant is also located and from which the delivery charge is accordingly at a minimum; but he does not reduce his delivered price in the slightest in order to hold or to gain this his most profitable, actual or prospective business. Instead he refrains from any act of price competition and makes no effort, so far as price is concerned, to bid for such most profitable business. In return for refraining from so doing he reciprocally gains the privilege of quoting and selling to customers in the high net return areas of other producer-members. Each well knows that so long as other members adhere to the same system of discrimination in price through employing the same concerted delivered price system, he will nowhere encounter competition in price.

(*c*) The cost of producing snow fence varies somewhat in different localities due to the varying costs at respective plants of the lumber, wire and other materials and varying labor costs. By the same system of discriminatory prices such variations in cost are nullified as an influence and check upon prices. Prices are made by producer-members with no regard to individual costs or to varying local conditions of supply and demand. Said prices are made in terms of the said delivered price system and are applied throughout the said 14 states not as identical prices but as identical delivered prices. Thus producer-members maintain an artificial level of prices little related to and not covered by truly competitive conditions.

(*d*) Under the said system of discriminatory prices, producers more efficient and better financed and equipped and better located, as respects supplies, markets and transportation, in large measure waive their competitive advantages, in the said respects, among others, by adhering to the said system of discriminatory prices. Thus, their incentive towards efficiency and economy is weakened through the identical character of the delivered prices made by them under the system. Any savings, that might be effected cannot, under the system be reflected in price concessions, nor in the holding of business in high net return areas, nor in the obtaining of increased volume of business. The same delivered prices are adhered to by all producer-members alike.

(*e*) Under conditions of true price competition, consumers located at or near points of production, normally tend to buy from a local plant. If its prices advance unduly, the competition of the nearest competitor having similar costs of production and distribution, becomes more active and restores a reasonable price. But under respondents' said pricing system the advantages which would normally accrue to buyers located near snow fence plants are destroyed. Each producer-member charges the same delivered price as every other. All buyers pay the same average carriage price factor irrespective of location or actual carriage cost, a factor substantially higher than would prevail under normal competitive conditions. Buyers may therefore purchase from a greater number of producers than would normally quote or sell under true conditions of price competition but the conditions under which they buy are monopolistic not competitive.

(*f*) Thus the buying public has lost the benefit of price competition in snow fence products among producer-members and has been obliged to pay artificially enhanced and maintained prices for said products.

(*g*) Since producer-members control 90 to 95 per cent of the snow fence products sold in the aforesaid fourteen states, the tendency of the acts and things averred in Paragraphs Four to Seven inclusive hereof is, through the said system of price discrimination, to give producer-members a monopoly in said products in said states.

The effects set forth in this Paragraph Eight are not exclusively alleged. They are set forth as showing some of the effects of the said system of price discrimination upon competition in price in the said industry. The said system of price discrimination, as adopted and maintained by respondents is a vehicle through which they obtain the elimination of price competition and have effectuated a monopoly or near-monopoly in their said industry in the said fourteen states.

PAR. 9. Respondents' agreement, understanding or conspiracy to practice price discrimination and the acts of price discrimination, as alleged in Paragraphs Four to Seven inclusive, are performed in the actual course of interstate commerce in the sale of like grades and qualities of snow fence. These acts not only may substantially lessen competition or tend to create a monopoly in said line of commerce; they have availed actually and substantially to lessen competition therein and they tend directly and powerfully to create a monopoly in said products in the said fourteen states of the northeastern section of the country, in favor of producer-members who grant the benefits of such discrimination in price to those customers who are favored by the system. The said acts of discrimination in price constitute unlawful discrimination in price within the intent and meaning of Section 2 of the aforesaid Clayton Act as amended by the aforesaid Robinson-Patman Act.

Wherefore, the premises considered, the Federal Trade Commission on the 18th day of January, A. D. 1938, now here issues this its complaint, comprising Counts I and II, against said respondents, stating its charges in such respect as hereinabove set out.

NOTICE

Notice is hereby given you, The United Fence Manufacturers Association, an unincorporated body; Mattson Wire and Manufacturing Company, a corporation; Nebraska Bridge Supply and Lumber Company, a corporation; Rowe Manufacturing Corporation, a corporation; Glenn A. Lindabury, Martin Lindabury, and Edgar Lindabury, as co-partners doing business under the style of H. R. Lindabury and Sons; and Glenn A. Lindabury, as trustee of said respondent Association; J. M. Denning and J. Wayne Denning, as co-partners doing business under the style of Illinois Wire and Manufacturing Company; and J. M. Denning, as trustee and vice-chairman of said Association; Margaret C. Larsen, doing business under the style of Buffalo Industrial Company; Leon L. Hutchinson, as producer-member and as trustee of said respondent Association; Stewart W. Adams, as producer-member and as trustee of said respondent Association; Harry I. Mattson, as chairman and member of the Board of Trustees of said Association; Lloyd DeKater, as trustee of said Association; Alvin V. Rowe, as trustee of said Association; Carl F. Larsen, as trustee of said Association; and S. Page Scholey, as executive secretary of said Association, respondents herein, that the 25th day of February, A. D. 1938, at 2:00 o'clock in

the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violation of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule VII) provide as follows:

> In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a short and simple statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.
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> Failure of the respondent to file answer within the time above provided or failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further hearing or notice to respondent, to proceed in regular course on the charges set forth in the complaint, and to make, enter, issue, and serve upon respondent findings of fact and an order to cease and desist.
>
> If respondent desires to waive hearing on the charges set forth in the complaint and not to contest the proceeding, the answer may consist of a statement that respondent admits all the material allegations of the complaint to be true. Any such answer shall be deemed to waive a hearing thereon, and to authorize the Commission, without trial and without further evidence, or other intervening procedure, to make, enter, issue, and serve upon respondent:
>
> (*a*) In cases arising under section 5 of the Act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes" (the Federal Trade Commission Act), or under sections 2 and 3 of the act of Congress approved October 15, 1914, entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes" (the Clayton Act), or under Section 2 of the aforesaid Clayton Act as amended by "An act to amend section 2 of the act entitled 'An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes' approved October 15, 1914, as amended (U. S. C., title 15, sec. 13), and for other purposes", approved June 19, 1936 (the Robinson-Patman Act), findings of fact and an order to cease and desist from the violations of law charged in the complaint.

In witness whereof, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 18th day of January, A. D. 1938.

By the Commission:

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-298; Filed, January 27, 1938; 2:16 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of January, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3197]

IN THE MATTER OF WALDO W. TOWNSLEY, AN INDIVIDUAL, DOING BUSINESS AS SERVAL-SYSTEM

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Robert S. Hall, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, February 2, 1938, at ten o'clock in the forenoon of that day (central standard time), Hotel Baltimore, Kansas City, Missouri.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission:

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-300; Filed, January 28, 1938; 10:15 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of January, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3242]

IN THE MATTER OF RUDOLPH Y. RAY, AN INDIVIDUAL TRADING UNDER THE NAMES OF INDIVIDUAL MAUSOLEUM COMPANY, AND RAY INDIVIDUAL MAUSOLEUM COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Robert S. Hall, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, February 4, 1938, at ten o'clock in the forenoon of that day (central standard time) in the U. S. Court Room, third floor, Federal Building, Lincoln, Nebraska.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-301; Filed, January 28, 1938; 10:15 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 28th day of January, A. D. 1938.

[File No. 31-405]

IN THE MATTER OF THE APPLICATION OF STONE & WEBSTER AND BLODGET, INC.

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 3 (a) (4) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Stone & Webster and Blodget, Inc., for exemption as a holding company from the provisions of said Act;

It is ordered, That a hearing on such matter be held on February 18, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before February 14, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-305; Filed, January 28, 1938; 10:47 a. m.]